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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 93 of 2016**

Niranjan Mittal S/o Late Shri Prabhudayal Mittal, Aged About 55 Years,
R/o Ambikapur Road, Ward No.1, Manendragarh, Tahsil Manendragarh,
Distt. Korea, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Department Of Forest,
Govt. Of Chhattisgarh, Mahanadi Bhavan, P.O. Rakhi, Naya Raipur,
Distt. Raipur, Chhattisgarh
2. The Principal Chief Conservator Of Forest Chhattisgarh, Aranya
Bhavan, Medical College Road, Raipur, District Raipur, Chhattisgarh
3. The Divisional Forest Officer (General), Forest Division-
Manendragarh, Distt. Korea, Chhattisgarh
4. The Sub- Divisional Forest Officer General, Forest Division-
Manendragarh, Distt. Korea, Chhattisgarh

---- Respondents**Writ Petition (C) No. 1933 of 2019**

Niranjan Mittal S/o Late Shri Prabhudayal Mittal, Aged About 59 Years,
Forest Contractor And Proprietor Of Proprietorship Firm- Prabhu Dayal
Chandra Prakash Mittal, R/o Ambikapur Road, Ward No.1,
Manendragarh, Tahsil Manendragarh, District Korea, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Forest,
Govt. Of Chhattisgarh, Mahanadi Bhavan, Atal Nagar, Naya Raipur,
District Raipur, Chhattisgarh

2. The Principal Chief Conservator Of Forest Of Chhattisgarh, Aranya Bhavan, Medical College Road Raipur, District Raipur, Chhattisgarh
3. The Conservator Of Forest, Forest Circle Surguja, Ambikapur, District Surguja, Chhattisgarh
4. The Divisional Forest Officer (General), Forest Division- Manendragarh, District Korea Chhattisgarh
5. The Sub- Divisional Forest Officer (General), Forest Division Manendragarh, District Korea, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. M. P. S. Bhatia, Advocate
For State	:	Mr. Ayaz Naved, Govt. Advocate
For Intervenor	:	Mr. A. K. Prasad, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

08.01.2020

1. These are two writ petitions filed by the petitioner which are inter-linked and therefore, this Court proceeds to decide both these writ petitions by a common order.
2. WPC No. 93/2016 has been filed challenging the order of the Divisional Forest Officer (in short "DFO") dated 09.10.2015 whereby the application of the petitioner for renewal of licence to operate the saw mill was rejected.
3. WPC No. 1933/2019 has been filed challenging the subsequent development i.e. the order dated 27.03.2019 whereby the Divisional Forest Officer has asked the petitioner to close down the saw mill within 24 hours.

4. The brief facts relevant for adjudication of the present dispute are that the father of the petitioner late Prabhudayal Mittal was having a saw mill as a proprietorship firm by the name M/s Prabhudayal Chandra Prakash Mittal Saw Mill. The father of the petitioner is alleged to have executed a power of attorney in favour of the petitioner for looking after the affairs of the said firm. The father of the petitioner died on 02.03.2008. Thereafter, the petitioner continued to get the lincence renewed in the name of his father who had expired in the year 2008 and was operating the saw mill. It is only in the year 2013 that the petitioner moved an application before the concerned authorities in the Forest Department for transfer of lincence in the name of the petitioner. It is this application which has been rejected by the Forest Department vide impugned order dated 09.10.2015 in WPC No. 93/2016.
5. A reading of the aforesaid impugned order dated 09.10.2015 would reveal that the DFO has rejected the application of the petitioner taking into consideration a litigation which is still pending consideration before the High Court in Second Appeal No. 511/2006 in which the Hon'ble High Court has vide an interim order dated 19.11.2007 directed the parties to maintain status quo.
6. The contention of the counsel for the petitioner is that the impugned order of rejection is on baseless grounds. According to the petitioner, he had sought for transfer of lincence based upon a sale deed dated 04.10.1999 wherein the petitioner had purchased the saw mill with its entire plant and machinery and timber stock along with its goodwill. The contention of the petitioner is that he has already an order in his favour from the Court of Additional District Judge, Manendragarh in Civil

Appeal No. 23-A/05 wherein the learned ADJ, setting aside the judgment passed in civil suit, has passed a decree in favour of the petitioner holding him to be the owner of the saw mill as per the sale deed dated 04.10.1999. According to the partitioner, in the light of the judgment and decree passed in his favour by the ADJ, Manendragarh in the first appeal, the respondent authorities were duty bound to have transferred and renewed the licence in his name. According to the petitioner, the said action on the part of the respondents is in total contravention to the Chhattisgarh (Kashtha Chiran (Viniyaman) Adhiniyam, 1984.

7. So far as the impugned order dated 27.03.2019 in WPC 1933/19 is concerned, it is the contention of the petitioner that the authorities should not have passed the said order particularly when the writ petition challenging the order of rejection of the renewal of licence is pending consideration before this Court. According to the petitioner, he had promptly filed a writ petition i.e. WPC No. 93/16 challenging the order dated 09.10.2015 and had also filed an application for grant of interim relief which too is pending consideration before this Court and that the respondent State had also entered appearance in the said case and filed their reply. According to the petitioner, when the whole matter regarding renewal of licence is subjudice before the High Court, the DFO could not have asked the petitioner to close down the saw mill which was being operated by the petitioner since long and therefore, the impugned order dated 27.03.2019 being bad in law deserves to be set aside/quashed.
8. Per contra, State counsel opposing the petitions submitted that it is a

case where it has been found that the petitioner in spite of his father having expired in the year 2008 had been getting the licence renewed and was operating the saw mill in the name of his father up till 2012 and it is only thereafter that the petitioner had filed an application for transfer of licence in his name. According to the State counsel, the petitioner had suppressed material facts from the Forest Department so far as the saw mill being run on a licence which was issued and renewed in the name of a dead person after 02.03.2008 for a period of well over 4-5 years which is otherwise not permissible under law. State counsel further submitted that the licensing authority in the course of deciding his application found that there was some dispute in respect of ownership and title over saw mill and the matter is pending consideration before the High Court and there is an order of status quo passed by the High Court in Second Appeal No. 511/2006 as early as on 19.11.2007, therefore the authorities concerned cannot be said to be at fault nor can the order rejecting the application for renewal moved by the petitioner dated 09.10.2015 be said to be illegal. Once when there was a rejection of the application for renewal of licence as early as in the year 2015 and which was not renewed or issued afresh, subsequently the petitioner did not have any right to continue with the operation of saw mill.

9. It was also the contention of the State counsel that no saw mill in the State could be operated without a proper licence issued under the aforementioned Act of 1984 and for this reason also the impugned order dated 27.03.2019 issued by the DFO under challenge in WPC No. 1933/19 does not warrant interference. It was further contended

that it was not 27.03.2019 alone which was passed for closing down the saw mill. If the reference in the said order dated 27.03.2019 is seen, it would reveal that the petitioner in the past had also been communicated on various occasions so far as the closing down the said mill which have not been challenged by the petitioner and on this ground also the writ petition deserves to be rejected.

10. The brother of the petitioner namely Chandra Prakash Mittal has moved an intervention application in the writ petition and opposed the writ petition on the ground that he also being the son of the earlier proprietor namely Prabhudayal Mittal has an equal right over the saw mill and that it was he who was assisting his father Prabhudayal in running the saw mill and before his death Prabhudayal had executed a registered Will on 01.10.2005 entrusting the saw mill in his favour for its operation. The intervenor further contended that by preparing a forged sale deed, the petitioner is claiming his right over the said saw mill. The intervenor has also pointed out to the litigation which is pending before the High Court in Second Appeal and also submitted that he also is a successor in the property of Prabhudayal Mittal.

11. Having heard the contentions put forth on either side and on perusal of record the admitted factual matrix of the case is that the original licensee was late Pabhudayal Mittal. He died on 02.03.2008. The land on which the saw mill situates in fact is not in the name of either Prabhudayal Mittal or any of his children but stands registered in the name of the mother of the petitioner and the intervenor i.e. wife of the original licensee. Even after 02.03.2008 when the original licensee died, the partitioner continued getting the licence renewed in the name

of a dead person without intimation to the Forest Department about the death and continued to operate the saw mill till 2012-13. It is also an admitted fact that there is a family dispute between the petitioner and his brother. It also reveals that there was a dispute which arose between the original licensee and the petitioner as it was at the behest of the original licensee that there was an order of disconnection of electricity supply which led to the litigation before the Civil Court and which has now travelled up till the High Court in Second Appeal No. 511/06. There is already an order of the parties to maintain status quo on 19.11.2007.

12. Given the aforesaid facts what clearly reflects is that there is admittedly a dispute in respect of title and ownership of the saw mill after death of the original licensee Prabhudayal Mittal. What also cannot be lost sight of is that the Chhattisgarh (Kashtha Chiran (Viniyaman) Adhiniyam, 1984 and the Rules framed therein i.e. the Chhattisgarh (Kashtha Chiran (Viniyaman) Niyam, 1984 do not prescribe for transferring of a licence. What also cannot be lost sight of is that both the Acts and the Rules do not provide for renewal of a licence in favour of the legal heirs on the death of original licensee. Even if it was permissible in the present case, there is admittedly a dispute between the legal heirs of the original licensee. Moreover, the renewal of a licence is only permissible to a person who is the licensee, renewal cannot be made in another person's name.

13. Under the circumstances, if the authorities in the Forest Department refused to renew the licence, it cannot be said to be in any manner arbitrary and contrary to law nor can it be said to be bad in any

manner. At the same time, the licence itself had lapsed in the year 2012-13 and thereafter there is admittedly no licence issued or renewed in favour of any person and under the provisions of the aforesaid Act of 1984, no person is permitted to operate a saw mill without a licence being issued from a Forest Officer of the Forest Department. In the absence of a licence or a renewed licence, if the Forest Department or the official in the Forest Department have asked the petitioner to close down the saw mill, the same also cannot be said to be in any manner bad in law, arbitrary or illegal. Merely by filing of a writ petition challenging the refusal to renew the licence without there being any interim order, the petitioner cannot infer, presume or act as if he is to be deemed to be a proper licensee.

- 14.** Thus, for all the aforesaid reasons, this Court does not find any merits in the two writ petitions. Both the writ petitions thus fail and stand dismissed.

**Sd/-
P. Sam Koshy
Judge**